IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

FRIDAY, THE 16TH MARCH 2007 / 25TH PHALGUNA 1928

WP(C).No. 35617 of 2003(M)

PETITIONER:

E.M. POULOSE, HEAD CONSTABLE NO.2178,
IDINJUKUZHIYIL HOUSE, QUARTERS NO.8,
EAST POLICE STAION, THRISSUR.

BY ADV. SRI.P.V.BABY.

RESPONDENTS:

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1. **THE DISTRICT SUPERINTENDENT OF POLICE,**
   THRISSUR.

2. **THE DEPUTY INSPECTOR GENERAL OF POLICE**
   THRISSUR RANGE, THRISSUR.

3. **STATE OF KERALA, REPRESENTED BY**
   THE PRINCIPAL SECRETARY TO HOME DEPARTMENT,
   SECRETARIAT, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SMT. K.R. DEEPA.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 16/03/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.35617/2003:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE ORDER DTD. 27/06/1995 ISSUED BY THE R.1.

EXT.P.2: COPY OF THE ORDER DTD. 24/04/1998 ISSUED BY THE R.1.

EXT.P.3: COPY OF THE ORDER DTD. 13/09/2001 ISSUED BY THE R.2.

EXT.P.4: COPY OF THE JUDGMENT IN C.C. 2/98 DTD. 15/10/2001 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT, WAAKKANCHERRY.

EXT.P.5: COPY OF THE REPRESNTATION DTD. 16/10/2001 SUBMITTED BY THE PETITIONER BEFORE THE R.2.

EXT.P.6: COPY OF THE SHOW CAUSE NOTICE ISSUED BY THE R.1. DTD. 15/05/02.

EXT.P.7: COPY OF THE REPLY DTD. 28/05/2002 SUBMITTED BY THE PETITIONER BEFORE THE R.1.

EXT.P.8: COPY OF THE ORDER DTD. 18/06/2002 ISSUED BY THE R.1.

EXT.P.9: COPY OF THE APPEAL DTD. 16/07/2002 SUBMITTED BY THE PETITIONER BEFORE THE R.2.

EXT.P.10: COPY OF THE ORDER DTD. 11/03/03 ISSUED BY THE R.2.

EXT.P.11: COPY OF THE APPEAL SUBMITTED BY THE PETITIONER BEFORE THE R.3. DT. NIL.

EXT.P.12: COPY OF THE ORDER DTD. 22/09/2003 OF THE R.3.

EXT.P.13: COPY OF THE ORDER IN D.O. 989/97/R. DTD. 24/10/97 OF THE R.1.

//TRUE COPY//

prv.

KURIAN JOSEPH, J.

W.P.(C) No.35617 of 2003

Dated this the 16th day of March, 2007.

JUDGMENT

Petitioner is aggrieved since he was denied promotion to the post of Assistant Sub Inspector. There is no dispute that the petitioner suffered a punishment of barring one increment without cumulative effect for two years. The main contention of the petitioner is that on the concerned charge he was denied promotion as per Ext.P13 and there cannot be two punishments. I am afraid this contention cannot be appreciated. The denial of promotion as per Ext.P13 is not a punishment. That was due to the pendency of the criminal case. The Departmental Promotion Committee could not hence clear the petitioner. It is fairly clear that there is no honourable acquittal so as to enable the petitioner to approach the Government for reconsideration of the decision of the Departmental Promotion Committee. The acquittal was only because the witness turned hostile. It is now settled law that any decision to supersede owing to the pendency of criminal proceedings is subject to review only in case the

incumbent concerned is granted an honourable acquittal. That is not there in the case of the petitioner and hence it cannot be said that the impugned orders are in any way faulty. The writ petition is accordingly dismissed. All pending interlocutory applications would stand closed.

KURIAN JOSEPH, JUDGE

vns